

lements are considered good as against subsequent creditors, provided no fraudulent intent as \*to the grantor's present or future creditors 389 exists, see *Bohn v. Headley supra*, and an ante-nuptial settlement, or agreement in writing to make one, before marriage in consideration thereof, is valid against general creditors, but not a post-nuptial settlement reciting an ante-nuptial *parol* contract, for the subsequent written instrument does not relate back to the prior *parol* agreement, *Albert v. Winn & Ross*, 5 Md. 66; *Betts v. Union Bank supra*; *Buchanan v. Deshon*,

Such a conveyance is *prima facie* in fraud of creditors but not conclusively so. It may be rebutted by showing that the grantor was at the date of the deed in prosperous circumstances possessed of ample means to discharge all his debts and that the settlement was at the time it was made reasonable and proper and without the taint of fraud in fact. *Warner v. Dove*, 33 Md. 579; *Goodman v. Wineland*, 61 Md. 451; *Grover Co. v. Radcliffe*, 63 Md. 496. The means retained by the husband in such case must, however, be easily available to creditors. Any conveyance which works a *hindrance* to them will be vacated. And the date of the conveyance is the time when the question of the husband's means is inquired into; the fact that he subsequently becomes possessed of sufficient means to pay his creditors is immaterial. See cases *supra*.

**Voluntary conveyance as to subsequent creditors.**—A voluntary conveyance from husband to wife, if *bona fide*, is valid as to subsequent creditors. The wife must establish the fact of the gift by clear and incontrovertible evidence, but the fraudulent purpose must be proved by the assailant. *Bayne v. State*, 62 Md. 105; *Matthai v. Heather*, 57 Md. 483; see also note 58 *infra*. Similarly where the husband is in apparent possession and actual control of property dealing with it as his own, the wife must, in order to defeat the rights of execution creditors of the husband, establish her own title thereto by clear and undoubted proof. *Erdman v. Rosenthal*, 60 Md. 312.

**Where there is a consideration.**—Courts of equity have long recognized the power of husband and wife to contract with each other in good faith and on valuable consideration, *Wilson v. Wilson*, 86 Md. 639; and, as against creditors of the husband, have enforced such contracts by which the husband has agreed to transfer property to his wife. *Myers v. King*, 42 Md. 65; *Drury v. Briscoe*, 42 Md. 154; *Bayne v. State*, 62 Md. 105. The wife may therefore become a creditor of her husband and in such case the law regards her rights with as much favor as any other creditor. He may prefer his wife in a deed for the benefit of creditors, or may convey property to her in the discharge of his debt to the same extent that he can so do with regard to any other creditor. There is nothing in sec. 1 of Art. 45 of the Code to prevent this. *Mayfield v. Kilgour*, 31 Md. 240; *Crane v. Barkdoll*, 59 Md. 534.

The relation of debtor and creditor, however, must be clearly established. Thus where he appropriates her separate estate with her knowledge and acquiescence, there must be an express promise at the time by him to repay, without which she can maintain no claim against him or his estate. *Stockslager v. Mechanics' Inst.*, 87 Md. 234; *Odend'hal v. Devlin*,